



FINANCE AND ADMINISTRATION COMMITTEE

Members present:

Ms DE Farmer MP (Chair)
Miss VM Barton MP
Mr MJ Crandon MP
Mr CD Crawford MP
Mr DA Pegg MP
Mr PT Weir MP

Staff present:

Ms D Jeffrey (Research Director)
Dr M Lilith (Principal Research Officer)

PUBLIC DEPARTMENTAL BRIEFING—INQUIRY INTO THE WORKERS' COMPENSATION AND REHABILITATION AND OTHER LEGISLATION AMENDMENT BILL 2015

TRANSCRIPT OF PROCEEDINGS

THURSDAY, 6 AUGUST 2015

Brisbane

THURSDAY, 6 AUGUST 2015

Committee met at 9.33 am

GALLANT, Mr Neil, Assistant Commissioner, Queensland Fire and Emergency Services

GOLDSBROUGH, Mr Paul, Executive Director, Workers' Compensation and Policy Services, Office of Industrial Relations, Queensland Treasury

HILLHOUSE, Ms Janene, Director, Workers' Compensation and Policy Services, Office of Industrial Relations

ROCHE, Mr Mark, Acting Deputy Commissioner, Operations and Emergency Management, Queensland Fire and Emergency Services

CHAIR: Good morning, ladies and gentlemen. I declare this public departmental briefing of the Finance and Administration Committee's inquiry into the Workers' Compensation and Rehabilitation and Other Legislation Amendment Bill 2015 open. I am Di Farmer, the chair of the committee and the member for Bulimba. The other members of the committee are: Mr Michael Crandon, who is our Deputy Chair and member for Coomera; Miss Verity Barton, who is the member for Broadwater; Mr Duncan Pegg, who is the member for Stretton; Mr Pat Weir, who is the member for Condamine; and Mr Craig Crawford, who is the member for Barron River.

The purpose of this hearing is to receive information from the department about the bill, which was referred to the committee on 16 July 2015. This hearing is a formal proceeding of the parliament and is subject to the Legislative Assembly's standing rules and orders. The committee will not require evidence to be given under oath, but I remind you that intentionally misleading the committee is a serious offence. Thank you for your attendance here today. The committee appreciates your assistance. You have previously been provided with a copy of the instructions for witnesses, so we will take those as read. Hansard will record the proceedings and you will be provided with the transcript. This hearing will also be broadcast. I remind witnesses to speak into the microphones for the benefit of Hansard. I remind all of those in attendance at the hearing today that these proceedings are similar to parliament to the extent that the public cannot participate in the hearings. In this regard I remind members of the public that, under the standing orders, the public may be admitted to or excluded from the hearing at the discretion of the committee.

I remind committee members that officers are here to provide factual or technical information. They are not here to give opinions about the merit or otherwise of the policy behind the bill or alternative approaches. Any questions about the government or opposition policy that the bill seeks to implement should be directed to the responsible minister or shadow minister or left to debate on the floor of the House. Could I also request that mobile phones be turned off or switched to silent and remind you that no calls are to be taken inside the hearing room. I am going to ask each department if you would like to make a brief opening statement and then we will go into questions. Paul, could I ask you to open up?

Mr Goldsbrough: The Workers' Compensation and Rehabilitation and Other Legislation Amendment Bill 2015 implements a number of election commitments made by the government to restore Queensland's workers compensation scheme to its proper place as the nation's leading scheme. The bill will achieve the government's stated policy objectives by amending the act to, firstly, reinstate the rights of injured workers to take common law damages actions against negligent employers where they are injured at work. This will be achieved by removing the greater-than-five-per-cent threshold for injured workers to access common law damages. The greater-than-five-per-cent threshold will be removed for all injuries that occur on or after 31 January 2015.

Secondly, it will establish the ability to provide additional compensation to those injured workers who were adversely impacted by the operation of the common law threshold between 15 October 2013 and 31 January 2015. Thirdly, it will remove the ability of prospective employers to obtain a copy

of a prospective worker's claims history. The ability to access this information is removed on assent of the bill but includes applications that are on hand but have not been decided. The other major point is that it will deem 12 specified cancers to be work related for firefighters who meet the required qualifying period of active firefighting service. It will also allow volunteer firefighters who contract one of these cancers to access common law damages. These amendments will apply from the date the bill was introduced into parliament.

As outlined by the Treasurer in his speech when introducing the bill into parliament, there has been a significant focus on consultation in implementing the government's policy objectives. A stakeholder reference group comprising representatives of employer associations, trade unions and legal representatives, WorkCover Queensland and self-insurers advised the government on the transfer to the new arrangements, taking account of the rights of injured workers and the timing of the workers compensation payments. The reference group will continue to advise the government on how best to implement arrangements to provide for the payment of additional lump sum compensation to injured workers adversely impacted by the introduction of the threshold.

The amendments in the bill will also allow a firefighter who contracts one of the 12 specified cancers to have that cancer deemed to be work related for workers compensation purposes where they meet the required qualifying period of active service. Auxiliary, full-time or volunteer firefighters who have a cancer deemed to be work related will be entitled to the same workers compensation benefits—that is, medical expenses, weekly benefits, access to statutory lump sums or common law damages.

Overall, the workers compensation amendments align with the main objects of the act, which is to seek to provide benefits for workers who sustain injury in their employment.

CHAIR: Thank you very much. Mark, can I ask you to give an opening statement?

Deputy Commissioner Roche: Mark Roche, Acting Deputy Commissioner of Operations and Emergency Management for Queensland Fire and Emergency Services. I thank you for the opportunity today to make an opening statement on the legislative amendments outlined in the Workers' Compensation and Rehabilitation and Other Legislation Amendment Bill 2015. I am pleased to provide a brief statement on the key matters that are contained in the bill as they relate to Queensland Fire and Emergency Services. The bill will amend the Workers' Compensation and Rehabilitation Act 2003 to allow full-time, auxiliary and volunteer firefighters who have contracted one of those 12 specified cancers access to workers compensation in the event that they meet the required qualifying period of active firefighting service. This amendment is welcomed by the Queensland Fire and Emergency Services.

Queensland Fire and Emergency Services is the primary provider of fire and emergency services in Queensland. We strive to deliver effective fire management services to ensure the safety of Queensland and our firefighters. The broad functions of Queensland Fire and Emergency Services from the fire and rescue perspective are: to protect persons, property and the environment from fire and hazardous materials emergencies and also to protect persons trapped in a vehicle or a building or who are otherwise endangered.

Queensland Fire and Emergency Services provides fire and rescue services across seven regions encompassing a skilled work force. There are approximately 2,200 permanent, 2,050 auxiliary and over 36,000 volunteer firefighters across the state. Our full-time and auxiliary firefighters provide these services through 69 permanent, 152 auxiliary and 21 composite stations. That totals 242 fire and rescue stations to service the community of Queensland. Our firefighters responded to over 70,000 incidents in the 2014-15 financial year including structural, vehicle and landscape fires. The strength and depth of our service is provided through the integration of the full-time auxiliary and volunteer firefighters, State Emergency Service and also Emergency Management staff within the one service, focusing on enhancing our service delivery through a continuous framework of debriefs, lessons learned, equipment and procedural reviews.

QFES delivers and develops accredited training programs that enhance the capability and skills of our firefighters through a purpose-built state-of-the-art training facility at Whyte Island, which is the Combined Emergency Services Academy. It is here that our recruit firefighters undertake a comprehensive residential training program that runs over a 16-week period, incorporating approximately 665 hours of theoretical, practical and instructor training including live compartment firefighting, practical hazardous material firefighting, vehicle firefighting and simulated rescue. The firefighters continue through a rigorous training regime throughout their career to meet the expected mandatory employment, professional and skills development standards to ensure we maintain a highly skilled workforce giving all firefighters the confidence, the skills, the knowledge and the ability to combat and manage increasingly complex emergency situations.

Following the terrorist attacks on the World Trade Center on September 11, 2001 firefighters across the United States of America and Canada successfully lobbied for the introduction of presumptive workers compensation. In 2011 the Monash University was commissioned to carry out a national retrospective research study of firefighters' mortality and cancer incidents, prompted by the results of overseas studies and also at the request and supported by Queensland Fire and Emergency Services. Under the proposed amendments, the auxiliary, full-time and volunteer firefighters who have cancers that are deemed to be work related and who meet the required qualifying period of active firefighting service will be entitled to workers compensation benefits and medical expenses, weekly benefits and access to statutory lump sum or common law damages.

Queensland Fire and Emergency Services has a legal obligation to ensure the health and safety of its employees. Firefighting is considered by many to be an inherently dangerous occupation and QFES is strongly committed to the provision of a workplace that is free from harm. I thank the committee for the opportunity to support the amendments contained in the bill and the importance this has for our staff within Queensland Fire and Emergency Services.

CHAIR: We thank you both for your very comprehensive opening statements. It is much appreciated. We will go to questions now. Paul, I have a question for you in the first instance, which is about the financial impacts on self-insured employers, which is referred to in the explanatory notes. Could you please outline what effect the provisions will have on self-insured employers?

Mr Goldsbrough: For self-insured employers it will very much depend on how they manage this cohort of claims. The costs of a common law action will develop if there is a disputation within the claim, so that is why it is very hard to cost the specifics of the matter. For example, if in a common law action the parties negotiate very quickly then the costs will be lower. I am not really sure what you are actually looking for there.

Ms Hillhouse: If I just might say, self-insurers make up around 10 per cent of the scheme.

CHAIR: Thank you. That is good to know, yes.

Ms Hillhouse: They vary in size and their claims history and claims experience also vary in size, so it is very difficult to determine an overall impact on them as a group when I think the amendments proposed will have more individual impacts on self-insurers.

Mr Goldsbrough: Yes. For example, you have some self-insurers in very high risk injuries and others more in white-collar type of industries where the injury rates are lower, so it will differ substantially for each self-insurer.

CHAIR: Just with the committee's indulgence, you have had some conversations with self-insurers in the time leading up to this. Could you give us a flavour of what they are saying?

Mr Goldsbrough: There are differing views between self-insurers. Certainly, their representation on the stakeholder reference group was an acknowledgement that the proposal to reintroduce the threshold was a government election commitment, and that is accepted. The concern that the self-insurers had relates to the proposed statutory adjustment scheme that will see some compensation for people injured between 15 October 2013 and 31 January 2015.

CHAIR: Thank you.

Mr CRANDON: I have a very quick question in relation to the time that it has taken for fireys generally to be notified through the department that we are seeking feedback from them. Are you aware that your department took, I think it was, 10 days to even consider actioning our request that the information be propagated out to the fireys for them to have an opportunity?

Mr Goldsbrough: If I can lead on that and then hand over to Deputy Commissioner Roche. The situation was: prior to the bill being introduced into parliament I met with all the firefighting associations and information was provided to them on the content of the bill that they could circulate to their members immediately the bill was introduced into parliament. We had set it up so that they would be able to get that information out quite quickly once the bill was introduced into parliament.

Mr CRANDON: Okay. Thank you. So the response to my specific question?

Deputy Commissioner Roche: I am aware that the representatives of our staff have been notified through their union. I also am aware that there was a request about providing the information to the wider community. I am not sure of the specific time frames, but we did request clarification of the impact of an employee of the Queensland government as to what they could and could not do in putting a submission up there and that has now been put up on our website, on our portal. Because of the time frames we had requested an extension for submissions, so they are the time frames that I am aware of.

Mr CRANDON: When did you request the extension?

Deputy Commissioner Roche: I believe that was in the last couple of days—this week.

Mr CRANDON: Yes. The situation is that we as a committee sent an email to you and we had specific dates and you had specific dates and there was no action by you to advise us that there was going to be some delay until just the other day—some 10 days after we sent the action. The feeling that our secretariat got was, 'Okay. So what's the big deal?' Of course, the big deal is: all it is doing is delaying the process that we need to go through at the behest of someone who did not think it was all that important to keep us informed or to ask us for an extension at a much earlier date, knowing full well that you were going to require an extended period of time. That is not good enough. That is not acceptable to this committee and we put you on notice in that regard so that, if you are involved in anything of this sort again, we would expect the department to act more quickly in that regard.

CHAIR: Could I just add that I do not think any committee member is in a position to reflect on the views of the secretariat. I just think we need to state that.

Mr CRANDON: Okay. Could I come to my question now, Madam Chair?

CHAIR: Sure.

Mr CRANDON: How did the department determine the 150 threshold determined to provide deemed diseases coverage for rural firefighters? That was not mentioned, Paul, in your opening statement. You said that it was extended to the 35,000 or 36,000 rural fireys, but you did not mention anything about the threshold.

Mr Goldsbrough: To active firefighters and I said that there was some criteria. I will ask Janene to respond to that.

Ms Hillhouse: Presumptive legislation generally provides a special level of coverage. In this instance it provides a special level of coverage for firefighters in recognition of the difficulties that we have faced in seeking compensation for certain work related injuries. As part of the process of developing the policy, we had discussions with Queensland Fire and Emergency Services that looked at the roles, responsibilities and expectations of volunteer firefighters and how they are distinct from auxiliary and full-time firefighters in the sense that they do not engage in sustained active firefighting as regularly. This was supported by recent findings in the Monash studies report, *Australian firefighters' health study*, which was a retrospective study of the incidence of mortality and cancer of over 200,000 current and former Australian firefighters. The data indicated that volunteer firefighters have significantly fewer recorded attendances than full-time and part-time firefighters. It also found that, overall, full-time and part-time firefighters had a significantly increased cancer incidence when compared to the Australian population. This was not seen for Australian volunteer firefighters. On the basis of this, the additional requirement for 150 exposure events was introduced. This was based upon similar requirements in Tasmania and the Northern Territory, so we sought to rely on those requirements nationally.

Mr Goldsbrough: Can I just add that the Monash study included the study of 200,000 volunteers, so it was a significant study. It found that, overall, full-time and part-time paid male firefighters had an increased incidence of cancer of about eight and 11 per cent respectively whereas volunteer firefighters had no increased incidence of cancer.

CHAIR: Can I ask that we get a copy of that study?

Mr Goldsbrough: Yes.

CHAIR: That would be really helpful.

Mr CRANDON: So when it comes to the individual firefighter, my actual question was: how did you determine the 150 threshold? You are suggesting that that is the threshold around the country?

Mr Goldsbrough: That is the threshold in the Northern Territory and in Tasmania. In South Australia volunteers are in; in Western Australia they are not. So it would align with some other jurisdictions.

Mr CRANDON: So it would align with Tasmania and the Northern Territory.

Mr Goldsbrough: That is correct.

Mr CRANDON: It would not align—

Ms Hillhouse: With South Australia. South Australia covers volunteers; however, they only require that they be engaged in active firefighting. They do not require an additional number of exposure incidents. The Commonwealth does not cover volunteers and neither does Western Australia.

Mr CRANDON: And Victoria and New South Wales?

Mr Goldsbrough: They do not have presumptive laws.

Mr CRANDON: They do not have anything yet?

Mr Goldsbrough: No.

Mr CRANDON: So they will probably be looking at ours. Thank you.

Miss BARTON: Thank you very much. My question is to the acting deputy commissioner. I just wondered whether or not it is standard practice within the QFES for the department to send out information on behalf of state government MPs.

Deputy Commissioner Roche: Sorry?

Miss BARTON: Whether or not it is standard practice within the department that information be sent out on behalf of state government MPs.

Deputy Commissioner Roche: I am not sure if I understand the question.

Miss BARTON: My understanding is that one member of parliament has sent out information and they have asked that that be distributed using official email channels. That person has raised concerns that only one side of the argument was being presented through official channels and I wondered whether that was standard practice.

Deputy Commissioner Roche: No, not that I am aware of, and I do not know of that incident. Generally speaking, if requests like that were to be provided to our staff they would make requests through to the state to get an understanding, because we have a lot of staff across the state—2,200 permanent, 2,050 auxiliary part-time and 36,000-plus volunteers. So a number of those requests could be provided to any one of those individuals. Generally speaking, they would make inquiries as to what can and cannot be circulated. I am not sure of that instance and I am not sure of any authority that was provided.

CHAIR: Verity, perhaps through the committee you could give the details to the acting deputy commissioner and he could get back to us on that specific?

Miss BARTON: I would want to check with the person who gave me the information first, if you do not mind.

Deputy Commissioner Roche: Okay.

CHAIR: Thank you.

Mr PEGG: I have a question to Mr Goldsbrough in relation to the amendments that will establish the ability to provide additional compensation to workers impacted by the operation of the common law threshold between 15 October 2013 and 31 January this year. How many individuals will be affected by the proposed amendments?

Mr Goldsbrough: We are expecting that there are probably around 4,600 as an estimate where people can demonstrate negligence. That is between 15 October 2013 and 31 January 2015.

Mr PEGG: Thank you.

Mr CRAWFORD: I have a similar question to the last one but more to the firefighters. Has any analysis been done to anticipate the number and amount of claims that we might see in relation to firefighter compensation claims using what sort of data we currently have on file?

Mr Goldsbrough: Yes, we have. Our actuary, PricewaterhouseCoopers, has done some modelling on that for us. For example, they look at health demographic data, the age profile of volunteer firefighters that we got from Queensland Fire and Emergency Services and so on.

My concerns with looking at costings in that way is that the actuaries have to build a picture based on a particular profile and cohort. It quite often does not resemble practical reality, if I can be blunt. For example, there was a general belief that there was going to be a significant proportion of claims in other jurisdictions when the deemed disease laws came in for firefighters and we have not seen those realised.

At the moment, we estimate that the cost for volunteers—the all-up cost—is about \$14 million. The caveats that the actuary will put around that are that they are saying that it could be 50 per cent out either way. I am very reluctant to talk about specific costs, because we have not been seeing it realised in claims behaviour in other jurisdictions.

The only incident that I am aware of where there has been a group of claims is in Western Australia, where I think they have had six brain cancer claims out of one fire station. That suggests a specific issue there, but across-the-board in South Australia, Tasmania and the Northern Territory, we have not seen claims in this space. So while I can quote all of those costings to you, I am not sure how accurate they are.

Mr CRAWFORD: I have a question in relation to retrospectivity. We heard about the 150 incidents and obviously we can see the chart with the number of years. Does the 150 incidents and that time frame begin for those firefighters when this bill goes through? For a volunteer firefighter who has already been in 10 years, do we count the work that they have already done if they can demonstrate their 150 incidents over that 10 years?

Mr Goldsbrough: Workers compensation legislation is beneficial legislation. You have to look at things fairly. The government used the date of diagnosis as the date that this would apply from quite deliberately. What it means is that if the bill were passed today and someone fronts up tomorrow with one of the 12 specified cancers then they would have an entitlement, subject to meeting the other criteria—whether it is 10, 15 or 25 years and then they are a volunteer with 150 exposure events.

I have discussed the matter with Deputy Commissioner Roche. We believe that the best way to look at this is to have a small group consider these claims. Because not all fire stations keep good records—and I will get the deputy commissioner to talk about that—we thought that if there was a small working group, possibly made up of WorkCover, the Office of Industrial Relations and chaired by Queensland Fire and Emergency Services, with representation from some stakeholders group, they could go away in each of these cases and look at them and build a pattern of likely exposure. That group would then make a recommendation to WorkCover as to whether they thought the person met the test. We thought that was probably the best way to take this forward when we really have another 10 years before you are going to have detailed records. I do not know whether Acting Deputy Commissioner Roche would like to comment.

Deputy Commissioner Roche: Probably Assistant Commissioner Neil Gallant will have a better understanding and better background on record keeping for volunteer rural firefighters.

Assistant Commissioner Gallant: Our record keeping for volunteers is not strong. That has been changed in the past couple of years. Our records of attendance at incidents by brigades have increased from less than 50 per cent accurate to over 99 per cent accurate. However, that does not also equate to a record of individuals attending incidents. That is just the brigades attending. Some brigades have kept very good records—keeping in mind that they are volunteers and bureaucracy is not something they are keen on—but some have been less than strong in keeping records.

We have recently changed those procedures. It is now a requirement for volunteers to be recorded against every particular incident that they attend. Whilst the past is not strong, as Mr Goldsbrough indicated, a beneficial committee will be set up to look at evidence other than just the recorded evidence for past events. That might go down to talking to the first officer of a brigade, looking at the overall attendance numbers of that brigade and getting other types of evidence to verify that particular claim.

Mr WEIR: I would like to ask about the 150 hours before a person is eligible for compensation. I come from a rural background. My concern is that it only takes one incident to cause a disease. I will give the example of a rural brigade going out to attend a grass fire and there is an old shed that goes up to smoke. It could have some endosulfan in it or old drums of DDT. It could have 100 chemicals in it. It would take only one incident for those firefighters to be exposed to a very serious incident. Could you explain to me why they are not worthy of immediate coverage because they are? That is a real possibility. What is their training compared to the auxiliary fire brigade? Are they trained for such an event to happen?

Mr Goldsbrough: I am happy to endeavour to do that. It is always a vexed question. Unfortunately these 12 specified cancers are prevalent within our community anyway. People will contract liver cancer and so on, unfortunately. All we had to go on was really the Monash study, which found that there were not elevated levels of cancer.

The comments that you are making are in terms of coming across some nasties in a fire and suddenly the whole dynamics changing in terms of the dose of exposure for an individual from one event. That is one of the things that I think the government is interested in. The Treasurer has indicated in a number of discussions with me that he is interested in the views of the committee in that regard.

In terms of the Monash study, all I can take you back to is that the study found no increased incidence of cancer amongst Australian volunteer firefighters compared to the general population. This compared to the finding that overall full-time and part-time male firefighters have an increased incidence of cancer of eight per cent and 11 per cent respectively. That was the information before us in considering this issue and the work that had been done in Tasmania and so on in terms of looking at what was a reasonable number of exposure events.

Mr WEIR: Do you have anything to add to that?

Assistant Commissioner Gallant: The role of rural firefighters is predominantly dealing with vegetation fires, although that role has been expanded in recent years and they are quite active in recovery operations, notably cyclone and flood events. It is not a requirement for volunteer firefighters to attend structural type fires. Whenever there is a structural fire the nearest urban fire and rescue service responds as well. However, it is acknowledged that there are occurrences, as you have identified, where a vegetation fire might impact on a structure.

For brigades that are likely to be confronted with those types of circumstances we do provide structural firefighting training but external only. In those sorts of training environments they are taught to stay uphill and upwind of the event, to not go inside the building, to protect the area from any other exposures or stop the fire from spreading. It is not an expectation that volunteer firefighters will enter a structure. They are not provided with the protective clothing required to do so. What they are trained in is external, structural firefighting, predominantly protecting exposures to stop that fire from spreading.

Miss BARTON: I appreciate that that is all well and good in theory, but does that actually happen in practice? I would imagine that in some parts of regional Queensland where they simply do not have access to an urban crew as volunteer firefighters they are not going to simply watch their friend's or neighbour's structure burn to the ground. I appreciate that there are going to be things that you might recommend as to how they do it, but does that really happen in practice, or as a crew do they just fight the fire? I would imagine that in regional areas they would just knuckle down together and fight the fire and do what they need to do to stop it spreading. We are conscious that so much of the state is in drought and the threat of fire spreading is quite large. There is also the cost to the person to whom the structure belongs.

Assistant Commissioner Gallant: As an organisation we are primarily focused on safety. That comes through in all of our training for the volunteer firefighters. We emphasise that they are not to enter any sort of a structure fire. They are not trained in how to do that. They are not provided with equipment to do that. There is zero expectation that they will do that. Likewise, in swiftwater type events they are provided with training that is predominantly around keeping them safe and alerting them to the dangers of entering swift water. With a structure fire, the training is about the dangers of entering a structure fire and teaching them how to fight that fire externally—largely preventing it from spreading. Whilst I cannot put my hand on my heart and say that no-one has ever done that, it is not the practice. The standard and professionalism of volunteer firefighters today is very high and their understanding of the dangers is correspondingly high. To answer your question, whilst they would fight that fire they would fight it externally under the parameters that their training allows.

CHAIR: This possibly goes back to record keeping. This legislation is presumptive legislation. If in an instance like this a volunteer firefighter has been involved in dealing with a fire where there have been dangerous chemicals involved, clearly that is over and above this general 150 incidents. If there has been a situation where a dangerous and potentially health-affecting incident has occurred, would that be recorded as it is over and above putting out a bushfire and particularly, as you say, it is not something you require your volunteers to do?

Assistant Commissioner Gallant: Any type of injury or exposure to hazardous materials would be recorded on either the injury or near-miss form. No, there would not be general record keeping of simply attendance at all incidents. It would only be a particular exposure. Even if that was not recorded, if a volunteer firefighter contracted cancer and was able to demonstrate that they did attend a particular exposure then that would fall under the normal type of WorkCover legislation where a person has demonstrated contact with a particular chemical, for example. The decision would be based around that rather than simply that—

CHAIR: A grab bag—

Mr Goldsbrough: We do have claims for various cancers in firefighters that are accepted in this scheme.

CHAIR: I will go back to another issue. I think we will probably be talking quite a bit about the firefighters aspect of this bill. My question is to you, Paul, and relates to the current legislation where employers can access the previous claims record of employees. Can you give us an idea of how many of those records have actually been accessed in a period of time?

Mr Goldsbrough: I will ask Ms Hillhouse to do that if that is all right. I can assure the committee that the majority of them are from labour-hire companies.

Ms Hillhouse: Up until June 2015 we have received a total of 26,977 requests, which is on average around 103 requests being received a day at the moment, which is around 515 requests a week. Those numbers are increasing on a weekly and monthly basis. We are seeing no slowdown. We are rather seeing an increase in numbers continually. In terms of who they are made up of, nine out of the top 10 users of the service are labour-hire companies. Our top user is actually responsible for approximately 15 per cent of all requests. They have put in around 4,236 requests.

CHAIR: Are you able to provide the committee with a record of who your top users are?

Mr Goldsbrough: Yes, if you keep the names of the companies confidential. Yes, we can provide that.

CHAIR: Of course. If they apply for it then they can get it. What is the nature of the information they can receive? Can you clarify that for me?

Ms Hillhouse: It is very much summary information. It talks about the date that a person has been injured, the nature of the injury and the type of claim. It also includes notification-only claims.

Mr Goldsbrough: That is right. A notification-only claim is one where they might not have any time off work. They have made a claim or they have gone to the doctor. They might be working in an abattoir and they have cut their finger, it is bandaged up and they go straight back to work in other duties. It is those sorts of claims. So it is very high level.

Mr CRANDON: To return to the 150 threshold, we as a committee have some concerns about this threshold. Whether it works in Tassie or the Northern Territory is quite another thing, but we can conjure up all sorts of issues. Going back some time, I can recall that one of the rural fireys down my way attended a fire which was a grassfire or bushfire initially and it turned out that there was an illegal dump of a significant number of tyres in the middle of it. As you can imagine, that was a nice old mess by the time all of those tyres caught fire. I do not know whether they would be a precursor to a cancer; I am just using that as an example. I would imagine, once again, out in the bush there would be illegal dumping occurring. Those illegal dumps could have all sorts of chemicals involved which would be difficult to identify. Fireys turn up for what they think is a bushfire or a grassfire job and end up being exposed some way or another to an illegal chemical dump. These are the concerns that we have in relation to this. You are not privy to this yet, Paul, but we received a submission from the Queensland Law Society which has now been approved for us to put on the website. In that submission under item 5 it states—

Holding volunteers to a threshold of 150 exposure incidents may exclude many volunteers due to the paucity of records kept and the lack of a uniform system of record-keeping. Feedback from the Society's members reveals that record-keeping can vary from region to region, and in some cases is in the personal notebooks of rural supervisors or does not exist at all. It is unlikely that many volunteers would be able to discharge an evidentiary burden of 150 exposure incidents, regardless of their length of service.

The submission goes on, and you now have a copy of that. The Law Society is identifying that there are some concerns out there in the community—certainly feedback that we have received from rural firefighters, in particular. In taking on board those things that I have just mentioned such as illegal dumping sites of tyres and other chemicals, could we get some feedback from you in relation to how you might handle those in a workers compensation sense?

Mr Goldsbrough: If I could lead off, the workers compensation coverage for volunteers, full-time and auxiliary firefighters is not commencing with the passing of this bill. All of those people have coverage now and can make a claim. I do not have the figures in front of me, but I can provide some information to the committee on the number of firefighters we have claiming for cancer. What this bill does is reverse the onus of proof—that is, it says that if you get one of these cancers and you have met the prevailing number of years and other criteria then it is deemed to be automatically work related. You do not have to prove anything. That is the difference. So we are getting claims now. The big difference for volunteers between what applies now and what would apply if the bill is given effect to is that volunteers currently do not get access to common law damages. Under this bill they will have access to common law damages. In that regard, people can make claims now. I think that is the first point to make.

The second point I would make is that there is recognition—and we have had lots of discussions with Fire and Emergency Services—that, while there are station records, there are not individual records of who attended. That is why we need to treat it beneficially. Where there is a claim or two claims in a station—and, unfortunately, sometimes these claims will occur in a station all at the same time. I know a few years ago Mareeba Fire Station had three brain cancer cases. What we are proposing to do is go into that station and talk to people, build a history of potential exposure events and build it up that way beneficially. If you were to do it any other way such that they had to prove it, it would defeat the whole purpose of the legislation.

Deputy Commissioner Roche: Just to clarify, the location was Atherton Fire Station.

Mr Goldsbrough: Yes, sorry; my apologies.

Deputy Commissioner Roche: The information that we have also been using is the records of attendance. We talked earlier about structural fires. From a rural perspective, I believe attendance at structural fires is probably better recorded than some of the landscape firefighters. Our records show that last year there was rural attendance at 28 structural fires by rural volunteers. In the urban part of fire and rescue there were just over 2,600. So it is a quite significant increased number of incidents—even from vehicle fires and hazardous material incidents as well.

In terms of the information that we have, we have looked at statistics, the record keeping and the expectation of who we believe would be exposed greater. It is not only about breathing in smoke; it is also about getting it on your skin or getting it through the pores of your skin—so exposure to hazardous material incidents, gas related and fuel related hazardous material incidents. It is a wide range of incidents that our staff and volunteers are exposed to.

Assistant Commissioner Gallant: I would like to add one aspect to the 150 exposure incidents. From my role of being responsible for the Rural Fire Service, I was very keen and pleased to see that exposure incidents also include hazard reduction burns. A very important role undertaken by rural fire brigades is to undertake hazard reduction burns. By doing that, they reduce the likelihood and severity of fires occurring during the bushfire season. This is an increasing role. Whilst rural fire brigades do not typically own any land, they often participate and assist landholders. So attendance at a hazard reduction burn is also recorded as an exposure incident because you are just as likely to have some smoke come your way during a hazard reduction burn as you are when attending an uncontrolled vegetation fire.

Again, historically the record keeping is not strong. Again, that comes back to the desire to have as little red tape, bureaucracy and record keeping as possible for rural brigades. Again, that is why, because of the need to look at claims historically, from this point on our record keeping will be much better. In the last few years it has improved significantly, but we will need to look beneficially and look at other anecdotal or local evidence of the types of activities that a particular individual might have.

Again, even if the record shows that that particular brigade might have attended only half a dozen incidents in the last five years it does not preclude the person from claiming under WorkCover. Again, if it can be shown that it was due to a particular exposure, that would be a decision for WorkCover. It does not stop the claim. This legislation simply turns the onus around to say, 'If you have attended this number of incidents over this period of time you are deemed to have contracted this through your work. If you haven't attended those number of incidents, the claim can still be looked at. Was it caused by your attendance at incidents?'

CHAIR: It is just not covered in the legislation.

Assistant Commissioner Gallant: Yes, it is just not in the presumptive legislation.

Mr CRANDON: Neil, you mentioned hazard burns, which I am very familiar with as I live in a rural setting and they are often out tidying things up. Very often that is used as a training ground, but there are other circumstances where there is other training being done. There are burns occurring which are not hazard burns. Would those training burns also be included?

Assistant Commissioner Gallant: Yes, they would.

Mr Goldsbrough: Yes, that is correct. The structure of the legislation includes all training attendances.

Miss BARTON: I am not sure whether Paul or Mark is the best person to answer this question. With regard to permanent part-time and auxiliary firefighters, the presumptive legislation means that they do not have to meet any evidentiary burden and then there is—

Mr Goldsbrough: Sorry, they do need to meet the required years of service.

Miss BARTON: But in terms of proving a particular incident there is no evidentiary burden that they have to meet to prove that a particular incident led to their having cancer. There is a reverse of the onus of proof in that sense. Then there is an inherent discrimination in that rural firefighters have the onus reversed back on to them and then we have a circumstance where a panel is making a guesstimate, really, as to whether or not they have met the requirements. Assuming that the panel guesses that they have not met the 150 fires that they need to, and for whatever reasons the record keeping was poor and they do not have records to prove that they actually have met the requirements, what avenues of appeal are there in terms of their being able to counter a determination that was made by a panel that has made a guess based on other circumstances and other reporting?

Mr Goldsbrough: If I can clarify some of your opening statements, the same reverse onus of proof that applies under this legislation applies equally for volunteers, auxiliary firefighters and full-time firefighters in relation to the presumption.

Miss BARTON: But there is a higher burden that has to be met by volunteer firefighters in terms of how many fires—

Mr Goldsbrough: The way the legislation is structured is that we look at the likely attendance at exposure events. For example, auxiliary firefighters generally go to every event in their area, and I would ask Acting Deputy Commissioner Roche to comment on that. What we wanted to do was build a profile of likely attendances at exposure events. What we require is the additional thing for volunteers of 150 exposure events in terms of getting accepted under the presumption. If, based on the advice of the little group we were talking about, WorkCover rejected a claim then that individual—a volunteer or full-time or auxiliary firefighter—still has appeal rights. They would first go to the review unit within the office of industrial relations and they can then appeal it up to the Queensland Industrial Relations Commission. There will still be claims for other things outside the presumption. For example, most firefighters are more likely to have a musculoskeletal injury, a burn or a cut for which normal workers compensation laws apply.

Deputy Commissioner Roche: The Monash study identified the average attendance at incidents. It identified that part-time firefighters, because they were more focused on structural and hazardous material incidents within their community, had a greater attendance at those types of exposures as opposed to permanent full-time firefighters and volunteer firefighters. I do not have the specific figures at my fingertips, but I can provide those.

CHAIR: Thank you.

Deputy Commissioner Roche: In providing the Monash report, the information will be included in that.

CHAIR: That is excellent. We look forward to reading that. We are scheduled to finish at 10.30. We are going to have so many questions to ask you in writing and without a doubt we will want to ask you back again because we have so much more that we want to cover. Would committee members and members of the panel be comfortable if we continue for at least another five minutes to ask some more questions?

Mr Goldsbrough: Yes, that is fine.

Mr PEGG: I have a question for Mr Goldsbrough about clause 30, in particular about the prospective worker's claims history summary. You answered a question from the chair earlier and said that statements are quite detailed in that there could be a finger injury from 25 years ago that was healed and the employer would get detail of that particular incident. I am just wondering about the utility of that summary for employers. Whilst you talk about the historical detail, I am just wondering, for instance, whether an employer would be able to discern whether that finger injury had healed or, as another example, if someone had a back injury that still affected them more recently. What will an employer actually get out of that kind of summary?

Mr Goldsbrough: For example, if a person had had multiple back injuries then it would show that history up and the employer would potentially make a judgement about whether they are best suited for that role.

Ms Hillhouse: That is probably about as far as it could actually go. There is not an awful lot of information that can be gained from the histories. It might show a propensity to claim as well.

Mr Goldsbrough: Yes. So I would have thought an employer in that situation would still need to look at some pre-employment medical to satisfy themselves that there is not an issue or there is an issue or whatever.

Ms Hillhouse: It would not give an indication of whether someone has an existing injury or not.

Mr Goldsbrough: That is right.

Mr PEGG: So you could have a situation where someone has had, for instance, five minor back strains over 20 years that have completely healed and then you could have another worker who potentially has one serious ongoing back problem and there is no ability for the employer at all to distinguish, merely from obtaining that history summary?

Mr Goldsbrough: That is right, and if you look at some industries—for example construction—and you have someone who has worked in the construction industry for 20 or 25 years then I would expect you to see four or five claims at some point because it is the nature of the industry. They might be small things like cut fingers, but you would see them.

Mr CRAWFORD: I have a question that is not in relation to firefighters necessarily. This one goes back to the five per cent. I am interested in people who have been caught in this period between October 2013 and 31 January 2015. On the assumption that the bill in its current form goes through, can you step me through how a person who was caught up during that time who had an injury would then go about seeking compensation? What would happen if it was a previous employer they worked for and they have now changed positions and those sorts of things? Can you just tell me from a layman's perspective?

Mr Goldsbrough: Essentially, you had to have an assessed degree of permanent impairment of six per cent. Depending on the individual, that can have quite a significant impact. So those people were no longer eligible for common law or they could not apply for common law. What they were entitled to was the statutory lump sum. The difficulty is that, as people are ageing and so on, they may have other chronic problems as well. While they might have a two per cent or three per cent degree of permanent impairment, in fact they are really quite significantly disabled when that is added on to it. So not having access to common law meant there was no recognition of that. I do not know, Ms Hillhouse, if you want to comment.

Ms Hillhouse: Nothing further.

Mr Goldsbrough: So in some cases people would be quite disadvantaged—most definitely. There is always the odd statement around about the concert pianist who loses the tip of their index finger. In that situation they are really quite disabled, whereas for someone like me that would be a slight injury. It depends on the circumstances.

Mr WEIR: This question is in two parts. The first part is that we have the work history. I would assume that a lot of the inquiries would be looking for litigation—a history of claims on WorkCover for not-so-minor ailments, at serial pests so to speak. The second part of it is about that five per cent. How many claims fall in that category? Before that legislation came in, how many claims had come in under that five per cent?

Mr Goldsbrough: So how many claims do we average a year that are less than six per cent?

Mr WEIR: Yes.

Mr Goldsbrough: In relation to the first part of your question, the claims history does not show about litigation or litigation behaviour. All it is is a high-level thing to say, 'An individual had a claim.' So you would not be able to tell if they had sued their employer or anything like that from that information. That is correct, is it not?

Ms Hillhouse: I believe so, yes.

CHAIR: Can you get back to us and just confirm that, please?

Mr Goldsbrough: Yes. In terms of the numbers, as I mentioned before we are looking at between 15 October 2013 and 31 January 2015, and there were 5,912 claims that were under the six per cent.

Ms Hillhouse: They were assessed. In terms of the number that would have gone to common law, I believe about 2,700 could have gone to common law over that period.

Mr Goldsbrough: That is correct.

CHAIR: I am sorry, the time has run away from us. Could you give us some examples? In all instances, the committee is very grateful for specific examples.

Mr CRANDON: Neil, you confirmed about all of those training events and what have you. An event could be a bushfire lasting 14 days. Does each shift count as an event or is the event the 14-day bushfire?

Assistant Commissioner Gallant: No. This is my understanding of the detail of it. If a volunteer firefighter went to three separate fires in the one day, that would be three exposure events. If they attended the same fire all day, that is a single exposure event. If they go back several times, as happens in large bushfires, several days running, each day would be a separate event.

Mr Goldsbrough: And we have tried to make that clear in the explanatory notes in terms of how that would work.

Mr CRANDON: Thank you.

CHAIR: As I said, we have so many more questions to ask. We certainly will appreciate seeing you again before we finalise our report. Thank you very much for your assistance today. It is greatly appreciated. I declare this hearing closed.

Committee adjourned at 10.37 am